

# Code of Virginia

## § 59.1-441.1. Definitions.

In addition to the definitions in § 59.1-435, the following terms in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

"Contract holder" means a person entering into a subscription contract with an organization;

"Department" means the Virginia Department of Agriculture and Consumer Services;

"Legal services organization" or "organization" means a person subject to regulation and licensing under Chapter 44 (§ 38.2-4400 et seq.) of Title 38.2 who operates, conducts, or administers a legal services plan;

"Legal services plan" or "plan" means a contractual obligation or an arrangement whereby legal services are provided in consideration of a specified payment consisting in whole or in part of prepaid or periodic charges, regardless of whether the payment is made by the subscribers individually or by a third person for them;

"Legal services plan seller" means a person subject to registration and regulation under this chapter who offers to a subscriber the opportunity to enter into a subscription contract. Home office salaried officers whose principal duties and responsibilities do not include the negotiation or solicitation of subscription contracts shall not be required to register under this chapter;

"Subscriber" means any person entitled to benefits under the terms and conditions of a subscription contract; and

"Subscription contract" means a written contract that is issued to a subscriber by an organization and that provides legal services or benefits for legal services.

(2004, c. 784.)

## § 59.1-441.2. Registration; fees.

A. It shall be unlawful for any legal services plan seller to offer, advertise, or execute, or cause to be executed by the subscriber, any subscription contract in the Commonwealth unless the legal services plan seller at the time of the offer, advertisement, sale, or execution of a subscription contract has been properly registered with the Commissioner. The registration shall (i) disclose the address, ownership, and affiliation with the legal services organization and such other information as the Commissioner may require consistent with the purposes of this chapter, (ii) be renewed annually on July 1, and (iii) be accompanied by the appropriate registration fee of \$50 per each

annual registration. Further, the registration shall be accompanied by a late fee of \$25 if the registration renewal is neither postmarked nor received on or before July 1.

B. Any legal services plan seller that sells a subscription contract prior to registering pursuant to this section shall pay a late filing fee of \$100 for each 30-day period the registration is late. This fee shall be in addition to all other penalties allowed by law.

C. A registration shall be amended within 21 days if there is a change in the information included in the registration.

D. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant to Title 38.2 shall not be subject to the provisions of this chapter.

E. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the Virginia Department of Agriculture and Consumer Services to be used in the administration of this chapter.

F. All insurance agent licenses issued by the State Corporation Commission including authority to sell legal services plan subscription contracts shall continue in effect for a period of 90 days following the effective date of this chapter, during which time those holding such authority from the State Corporation Commission shall apply for registration with the Department. At the end of the 90-day period, no insurance agent license shall include the authority to sell legal services plan subscription contracts.

(2004, c. 784.)

#### § 59.1-441.3. Regulations.

The Board is authorized to prescribe reasonable regulations in order to implement provisions in this chapter relating to legal services plan sellers. These regulations shall be adopted, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

(2004, c. 784.)

#### § 59.1-441.4. Investigations.

A. The Commissioner may, with respect to the offering of subscription contracts:

1. Make necessary public and private investigations within or without the Commonwealth to determine whether any person has violated the provisions of this chapter or any rule, regulation, or order issued pursuant to this chapter;

2. Require or permit any person to file a statement in writing, under oath, or otherwise as the Commissioner determines, as to all facts and circumstances concerning the matter under investigation; and

3. Administer oaths or affirmations, and upon motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

B. Any proceeding or hearing of the Commissioner pursuant to this chapter, in which witnesses are subpoenaed and their attendance required for evidence to be taken, or any matter produced to ascertain material evidence, shall take place within the City of Richmond.

C. If any person fails to obey the subpoena or to answer questions propounded by the Commissioner and upon reasonable notice to all persons affected thereby, the Commissioner may apply to the Circuit Court of the City of Richmond for an order compelling compliance.

(2004, c. 784.)

#### § 59.1-441.5. Production of records.

Every legal services plan seller shall, upon written request of the Commissioner, make available to the Commissioner its legal services plan contract records for inspection and copying to enable the Commissioner to reasonably determine compliance with this chapter. Every legal services plan seller shall maintain a true copy of each subscription contract executed between the subscriber and the legal services plan, and each contract shall be maintained for its term.

(2004, c. 784.)

#### § 59.1-441.6. Violations of chapter; penalty.

A. Any legal services plan seller who knowingly and willfully violates any provision of this chapter is guilty of a Class 3 misdemeanor.

B. Any violation of the provisions of this chapter shall constitute a prohibited practice pursuant to the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

(2004, c. 784.)